

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, *et al.*

Plaintiffs,

v.

TYSON FOODS, INC., *et al.*

Defendants.

Case No. 4:05-cv-00329-GKF-SAJ

DECLARATION OF JAMES R. WEDEKING

James R. Wedeking declares the following:

1. I am a member of the law firm of Sidley Austin, LLP; my office is located at 1501 K St. N.W., Washington, D.C. 20005.
2. I serve as outside counsel to Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., and Cobb-Vantress, Inc. in connection with the lawsuit brought by the State of Oklahoma, *ex rel.* W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma and J.D. Strong, in his capacity as the trustee for natural resources for the State of Oklahoma, Case No.4:05-cv-00329-GKF-SAJ.
3. On December 17, 2008, I researched the question of whether Plaintiffs in this case are entitled to file two separate motions in response to the Defendants' Motion to Dismiss For Failure to Join the Cherokee Nation as an [sic] Required Party or, In the Alternative, Motion for Judgment As a Matter of Law Based on Lack of Standing, Dkt. No. 1788 (filed Oct. 31, 2008) (Defendants' "Rule 19 Motion").

4. On December 17, 2008, I reviewed the docket sheet available through the Court's Electronic Case Filing website. I observed that the docket entry for Defendants' Rule 19 Motion read as follows: "MOTION for Judgment as a Matter of Law (*SUBMITTED AS DOC # 1788*) by [Defendants] (With attachments) (Jorgensen, Jay) Modified on 11/3/2008-This is a multi-part motion; See Doc #1790 for second part (lml, Dpty Clk) (Entered: 10/31/2008)." I also observed that an un-numbered, November 3, 2008 docket entry immediately below Docket No. 1790 read as follows: "Notice of Docket Entry Modification; Error: This is a multi-part motion, but not all parts were filed; Correction: Filed the second motion part (Motion for Judgment as a Matter of Law) as Document No. 1790 (Re: 1788 MOTION to Dismiss *For Failure to Join the Cherokee Nation as a Required Party*) (lml, Dpty Clk) (Entered: 11/03/2008)."

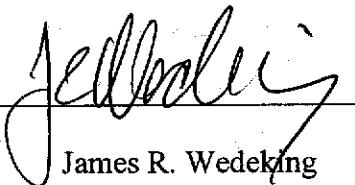
5. On December 17, 2008, I contacted the Court Clerk's office and stated that I had a docketing question for case number 05-00329. Specifically, I requested more information regarding docket entry numbers 1788 and 1790 and wished to speak to the person denoted as "lml, Dpty Clk." The unidentified male respondent stated that he would transfer me to Deputy Clerk Lisa Lyles.

6. Once transferred, Deputy Clerk Lyles confirmed that the demarcation "lml, Dpty Clk" on the docket sheet denoted that she was the one who made the docket entries. She stated that it is the practice of the Clerk's office to separate or split motions requesting alternative relief into separate docket entries. According to Deputy Clerk Lyles, this is done for administrative convenience and allows the Clerk's office to record the rulings on each form of requested relief. By assigning two docket numbers to a single motion, the Clerk's office is not purporting to change the substantive nature of the motion and does not physically alter the motion itself. A

motion filed by a party that receives two docket entries is still one motion for every other purpose.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Dec. 22, 2008


James R. Wedeking